

MDR Tracking Number: M5-04-0854-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 11-20-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The medical procedure, office visits, physical performance test, and therapeutic procedures were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the following issues of medical necessity: the IRO agrees with the previous determination that the ultrasound therapy, myofascial release, manual therapy, and physical medical treatment from 7/28/03-9/26/03 were not medically necessary.

This Findings and Decision is hereby issued this 17<sup>th</sup> day of March 2004.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 7/28/03 through 9/26/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 17<sup>th</sup> day of March 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/rlc

## NOTICE OF INDEPENDENT REVIEW DECISION

March 10, 2004

Rosalinda Lopez  
Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
7551 Metro Center Drive, Suite 100, MS 48  
Austin, TX 78744-1609

RE: MDR Tracking #: M5-04-0854-01  
IRO Certificate #: IRO4326

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. \_\_\_'s health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### Clinical History

This patient sustained an injury on \_\_\_ while pulling on a sofa bed. She reported immediate pain in her neck, shoulders, wrist, and lower back. The patient has been seeing a chiropractor and pain management specialist for treatment. She underwent a cervical epidural steroid injection series with good results.

### Requested Service(s)

Therapeutic procedures, office visits, ultrasound therapy, myofascial release, physical medicine treatment, manual therapy, physical performance test, and medical procedure from 07/28/03 through 09/26/03

### Decision

It is determined that the therapeutic procedures, office visits, physical performance test, and medical procedure from 07/28/03 through 09/26/03 were medically necessary to treat this patient's condition. However, the ultrasound therapy, myofascial release, manual therapy, and physical medicine treatment from 07/28/03 through 09/26/03 were not medically necessary to treat this patient's condition.

#### Rationale/Basis for Decision

The records reviewed indicated the patient sustained multiple injuries while at work on \_\_\_\_\_. An aggressive treatment program was begun. Diagnostic testing in the form of cervical MRI, nerve conduction velocity and electromyography studies were ordered. She was placed off work. Apparently there was only limited response to the treatment she initially received. She requested a change of treating doctors and was approved. The new treating doctor evaluated the patient and referred her for evaluation and cervical epidural steroid injections (ESI) were recommended. Three ESIs were performed and a trial of active therapy was done after each injection. The patient was also receiving passive therapy in conjunction with post-injection active therapy.

National chiropractic guidelines allow for active therapy in injuries of this nature. However, there are no treatment guidelines that allow for passive therapy, i.e. myofascial release/massage or ultrasound over six months after the date of her injury. Therefore, it is determined that the therapeutic procedures, office visits, physical performance test, and medical procedure from 07/28/03 through 09/26/03 were medically necessary. However, the ultrasound therapy, myofascial release, manual therapy, and physical medicine treatment from 07/28/03 through 09/26/03 were not medically necessary.

Sincerely,